

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA)
) Criminal No. 11-186-S
 v.)
)
JOSEPH CARAMADRE)
)
 and)
)
RAYMOUR RADHAKRISHNAN)
)
 Defendants.)

GOVERNMENT'S RESPONSE TO RECOMMENDATION
REGARDING RESTITUTION CALCULATION

On November 6, 2013, the Court issued a Report and Recommendation (the "Report") concerning the amount of restitution owed by defendants Joseph Caramadre ("Caramadre") and Raymour Radhakrishnan ("Radhakrishnan"). In the Report, the Court requested that the Government provide further information concerning three annuities, one in the name of annuitant Gerald McGetrick ("McGetrick") and two in the name of annuitant James O'Donnell ("O'Donnell"). The purpose of this Memorandum is to provide the Court with further information concerning these three annuities. Based on the information provided, the United States asserts that the losses sustained by the insurance companies as a result of the issuance of these three annuities

should be included in the restitution amount owed by Caramadre.¹

A. The McGetrick Annuity

On December 30, 1994, an annuity application was submitted to Golden American Life Insurance Company ("Golden American") in which Caramadre's wife was the owner and McGetrick was the annuitant. A redacted copy of the annuity application is attached hereto as Exhibit 1.

This annuity falls within the scope of the Indictment and should be included in the restitution amount owed by Caramadre. As the Court observed in the Report, this annuity was applied for on December 30, 1994, two days before the date charged in the Indictment. However, the Indictment provides that the scheme commenced on "an unknown date, but at least as early as in or about January 1995." Indictment ¶ 23. This "in or about language" incorporates conduct that occurred shortly before the date provided in the Indictment. See, e.g., United States v. Mata, 491 F.3d 237, 243 (5th Cir. 2007) ("The prosecution is not required to prove the exact date alleged in the indictment; it suffices if a date reasonably near is established"). Moreover, much of conduct involved with this annuity, including the death

¹ As these three annuities were issued long before Radhakrishnan joined the scheme, Radhakrishnan's restitution obligation should not be increased to include the losses from these three annuities.

of the annuitant and the submission of the death claim, occurred after January 1, 1995. The McGetrick annuity falls temporally within the scope of the Indictment.

The McGetrick annuity also falls well within the factual scheme as charged in the Indictment. McGetrick was unrelated to Caramadre and was terminally-ill. He passed away on January 17, 1995, just 19 days after the annuity application was submitted. A copy of McGetrick's death certificate is attached as Exhibit 2. It lists the cause of death as "prostate cancer, metastatic." Caramadre attempted to profit from McGetrick's death in the same manner as he did with the other terminally-ill annuitants. He opened the annuity in the name of his wife to conceal his ownership interest. (See Indictment ¶ 68 alleging Caramadre's use of relatives to conceal his ownership interest.) Moreover, as the named agent, Caramadre earned commissions upon the issuance of the annuity. (See Indictment ¶ 50 concerning receipt of commissions as part of fraud scheme.) In addition, Caramadre directed the money that he deposited into the annuity be placed into an Emerging Market fund (see Exhibit 1), which is consistent with Caramadre's strategy of investing the money into high-risk funds, knowing that any losses would be borne by the insurance companies.

In short, the McGetrick annuity falls within the scope of the Indictment. The annuitant was an unrelated terminally-ill individual on his deathbed. Caramadre sought to profit from his death by investing money in a high-risk fund and by earning commissions as the listed agent and did so in a manner consistent with the scheme alleged in the Indictment. The loss total from this annuity, \$7,147.06, should be included in Caramadre's restitution amount.

B. The O'Donnell Annuities

The two annuities opened in the name of Mr. O'Donnell likewise fall within the scope of the scheme. Mr. O'Donnell was a terminally-ill individual unrelated to Caramadre who was suffering from AIDS. (See Exhibit 3, Genworth Insurance documents indicating that O'Donnell passed away from AIDS and related complications.) The Indictment alleges that from 1995-1996, Caramadre visited a Rhode Island compassion center for the purpose of identifying terminally-ill AIDS patients to be named as annuitants. (Indictment ¶¶ 70 - 76) O'Donnell was one of the AIDS patients used by Caramadre in furtherance of this scheme.

The O'Donnell annuity owned by James DiPietro, a Caramadre relative, was submitted by Edward Hanrahan ("Hanarahan") as the agent. (See Exhibit 4.) The Indictment alleges that part of the

scheme was for Hanrahan to share commissions he received with Caramadre on the annuities naming terminally-ill individuals. (See Indictment ¶ 50) The other O'Donnell annuity was owned by Caramadre and named Caramadre as the agent. (See Exhibit 5) Caramadre therefore derived profits from the annuity itself as well as the commissions paid by the insurance company.

Moreover, for both of the O'Donnell annuities, Caramadre utilized the strategy delineated in the Indictment of staggering deposits so as to avoid detection by the insurance companies. (See Indictment ¶ 66 and Statement of Facts at 4, stating that "Caramadre took steps to conceal his use of terminally-ill individuals from the insurance companies, including opening annuities with small deposits that would not attract scrutiny . . .".) The DiPietro/O'Donnell annuity was funded with a \$5,000 initial deposit on December 22, 1997. A few weeks later, after the annuity had been approved, an additional \$507,200 was deposited into the annuity. (See Exhibits 6 and 7.) The Caramadre/O'Donnell annuity was initially funded with \$25,000. (See Exhibits 8 and 9.) An additional \$100,000 was deposited after the annuity application was approved.

The two annuities opened using AIDS patient Mr. O'Donnell fall within the scope of the scheme alleged in the Indictment. The losses incurred on these two annuities - \$33,070.19 and \$7,812.58 - should be included in the restitution amount owed by Caramadre.²

Respectfully submitted,

PETER F. NERONHA
UNITED STATES ATTORNEY

/s/ Lee H. Vilker
LEE H. VILKER
Assistant U.S. Attorney

JOHN P. MCADAMS
Assistant U.S. Attorney
U.S. Attorney's Office
50 Kennedy Plaza, 8th Floor
Providence, RI 02903

² The United States did notice one error in the Report that it would like to bring to the Court's attention. Footnote 29 on page 24 incorrectly provides that transactions involving Peter DiSaro and Edwin Rodriguez as co-owners were removed because they were father-son. DiSaro and Rodriguez were not related and were not co-owners of the same account. The Disaro account was removed from the calculation because DiSaro owned the account with his father, Lawrence Disaro. Rodriguez was named as a co-owner on an account with Caramadre. This account was removed from the bond calculation because Rodriguez did not pass away and therefore no death-put bonds were redeemed by Caramadre.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2013, I caused the within Government's *Response to Recommendation* to be served via the Court's Electronic Filing System on:

For Joseph Caramadre:
Randy Olen, Esq.
William Murphy Esq.

For Raymour Radhakrishnan:
Olin Thompson, Esq.

/s/Lee H. Vilker
Lee H. Vilker
Assistant U.S. Attorney
United States Attorney's Office
50 Kennedy Plaza, 8th Floor
Providence, RI 02903
Lee.Vilker@usdoj.gov

01/22/1994 01:55 4017852723

EST. PLAN. RESOURCES

PAGE 02

Golden American Life Insurance Company**DEFERRED VARIABLE ANNUITY**

A Subsidiary of Bankers Trust Company

Golden American Life Insurance Company is a stock company domiciled in Wilmington, Delaware

APPLICATION**1. OWNER(S)** (First, Middle, Last Name)

PAULA M. CARAMADRE

Street, City, State, Zip Code

Date of Birth (Mo. Day Yr.)

435 SCITUATE AVE UNIT 4B

Social Security No./TIN

CRANSTON, RI 02920

Phone Number(s): 401-943-6953

☐ Male ☒ Female**2. ANNUITANT** (If other than Owner)

LESLIE V. MCGETRICK

Street, City, State, Zip Code

Date of Birth (Mo. Day Yr.)

P.O. 9134

Social Security No./TIN

WARWICK, RI 02889

Relation to Owner:

☒ Male ☐ Female**3. CONTINGENT ANNUITANT** (Optional)

Street, City, State, Zip Code

Date of Birth (Mo. Day Yr.)

Social Security No./TIN

Relation to Annuitant:

☐ Male ☐ Female**4. PRIMARY BENEFICIARY(IES)**

(If more than one - indicate %)

PAULA M. CARAMADRE

Relation to Annuitant:

OWNER OF ANNUITY

5. CONTINGENT BENEFICIARY(IES)

(If more than one - indicate %)

Relation to Annuitant:

6. PLAN (Check one)☒ DVA☐ Other**7. ANNUITY OPTION AND COMMENCEMENT DATE**

Annuity Option (check one):

☐ Variable Annuity Certain☐ Income for Life with 10 Years Certain☐ Other

Annuity Commencement Date:

☒ Check here for maximum age (specified in the prospectus) or fill in date: / /

(month, day, year)

8. (A) INITIAL PREMIUM AND ALLOCATION INFORMATIONInitial Premium Paid \$ 10,000 Make check payable to Golden American Life Insurance Company

Fill in percentages for initial allocation in INITIAL column below.

(B) OPTIONAL DOLLAR COST AVERAGING ("DCA"): ☐ Check box to elect.

(Minimum of \$10,000 must be allocated to the division checked below)

Amount of Monthly Transfer \$ (minimum \$250)

Division Transferred From:

☐ Limited Maturity Bond Division or☐ Liquid Asset Division

Divisions Transferred To:

Fill in percentages in DCA column below.

ACCOUNT DIVISION	INVESTMENT ADVISOR	(A) INITIAL	(B) DCA
MULTIPLE ALLOCATION	ZWEIG ADVISORS, INC.	%	%
FULLY MANAGED	WEISS, PECK & GREER ADVISERS, INC.	%	%
CAPITAL APPRECIATION	CHANCELLOR TRUST CO.	%	%
RIISING DIVIDENDS	KAYNE ANDERSON INV. MGMT. INC.	%	%
ALL-GROWTH	WARBURG, PINCUS COUNSELLORS, INC.	%	%
REAL ESTATE	CHANCELLOR TRUST CO.	%	%
NATURAL RESOURCES	VAN ECK ASSOCIATES CORP.	%	%
EMERGING MARKETS	BANKERS TRUST COMPANY	100 %	%
MANAGED GLOBAL ACCOUNT	WARBURG, PINCUS COUNSELLORS, INC.	%	%
LIMITED MATURITY BOND	BANKERS TRUST COMPANY	%	%
LIQUID ASSET	BANKERS TRUST COMPANY	%	%
TOTAL		100%	100%

* Do not fill in an allocation percentage for the DCA division transferred from.

GAL-DVA-8/89 Golden American Life Insurance Company, Customer Service Center, PO Box 8794, Wilmington, DE 19899-8794

DEC 30 '94 12:25

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EX.1

GOLD-MCGETRICK-000021

01/22/1994 01:56

4017852723

EST. PLAN. RESOURCES

PAGE 03

9. OPTIONAL SYSTEMATIC PARTIAL WITHDRAWALS			
Frequency: <input type="checkbox"/> Monthly or <input type="checkbox"/> Quarterly		Start Date: / / (month, day)	
Withdrawal: <input type="checkbox"/> _____ % of Accumulation Value or <input type="checkbox"/> \$ _____			
<small>(The minimum withdrawal is \$100, not to exceed 1.25% monthly / 3.75% quarterly of the Accumulation Value.)</small>			
Withholding Election Information (must be completed if Systematic Partial Withdrawals are chosen)			
A. <input type="checkbox"/> I do not want to have Federal income tax withheld.			
B. <input type="checkbox"/> I want to have Federal income tax withheld from each withdrawal using the number of allowances and marital status indicated. (You may also designate an additional amount in Section "C".)			
Allowances: _____; <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at a higher single rate.			
C. <input type="checkbox"/> I want the following additional amount withheld from each withdrawal \$ _____. (You must also complete "B" above.)			
<small>See page A1 of the prospectus for Withholding Election Instructions.</small>			
10. TELEPHONE REALLOCATION AUTHORIZATION <u>PC</u> Owner's Initials <u>JOSEPH A. CARAMADRE</u>			
I authorize Golden American to act upon reallocation instructions given by telephone from <u>JOSEPH A. CARAMADRE</u> (name of your registered representative) upon furnishing his/her social security number. Neither Golden American nor any person authorized by Golden American will be responsible for any claim, loss, liability or expense in connection with reallocation instructions received by telephone from such person if Golden American or such other person acted on such telephone instructions in good faith in reliance upon this authorization. Golden American will continue to act upon this authorization until such time as the person indicated above is no longer affiliated with the broker/dealer under which my contract was purchased or until such time that I notify Golden American otherwise in writing.			
11. TAX-QUALIFIED PLANS If you are funding a qualified plan, please specify what type:			
<input type="checkbox"/> IRA <input type="checkbox"/> IRA Rollover <input type="checkbox"/> SEP/IRA <input type="checkbox"/> Other _____			
12. REPLACEMENT Will the contract applied for replace any existing annuity or life insurance on the annuitant's life? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If "yes", please outline in the Remarks section.			
13. REMARKS			
14. Read the following statements carefully and sign below:			
• By signing below, I acknowledge receipt of the Prospectus. I understand that this contract's cash surrender value may increase or decrease on any day depending on the investment results. No minimum cash surrender value is guaranteed. This contract is in accord with my anticipated financial needs.			
• I agree that, to the best of my knowledge and belief, all statements and answers in the application are complete and true and may be relied upon in determining whether to issue the contract. My answers will form a part of any contract to be issued, and only the owner and Golden American have the authority to modify this application.			
• If Golden American amends the application as indicated in the amendments section below, I will approve of the change by accepting the contract where permitted by state regulation. I understand that any change in plan, annuity option, benefits applied for, or age at issue must be agreed to in writing.			
<u>Joseph A. Caramadre</u> Signature of Owner		<u>PROVIDENCE, RI</u> <u>12/30/94</u> Signed at (City, State) Date	
Signature of Joint Owner (if applicable)		Signed at (City, State) Date	
<u>Joseph A. Caramadre</u> Signature of Annuitant (if other than Owner)		<u>PROVIDENCE, RI</u> <u>12/30/94</u> Signed at (City, State) Date	
Client Account No. (if applicable) _____			
Do you have reason to believe that the contract applied for will replace any existing annuity or life insurance on the life of the annuitant? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<u>Joseph A. Caramadre</u> Agent Signature		<u>JOSEPH A. CARAMADRE</u> Print Name & No. of Agent	
		<u>036-40-4863</u> Social Security No.	
		<u>#012652</u> Broker/Dealer/Branch	
Amendments to the Application			

GAL-DYA-8/93 Golden American Life Insurance Company, Customer Service Center, PO Box 8794, Wilmington, DE 19899-8794

DEC 30 '94 12:26

4017852723 PAGE.003

EX.1

GOLD-MCGETRICK-000022

CAR-003691

GENFIN-ODONNELL-000104

Policy #T06088508

Owner: Oliver R. Di Pietro
Annuitant: James P. O'Donnell
Agent: Edward J. Hanrahan

History of the Account:

Product: Life of Virginia Variable Annuity Plus
Life of Virginia is n/k/a Genworth Life and Annuity Insurance Company
Issued: 12/22/1997
Date of Death : 1/22/1998
Death Claim Pd: 4/2/1998

GNW-003744

Policy #T06059193

Owner: Joseph A. Caramadre
Annuitant: James P. O'Donnell
Agent: Joseph A. Caramadre

History of the Account:

Product: Life of Virginia Variable Annuity Plus
Life of Virginia is n/k/a Genworth Life and Annuity Insurance Company
Issued: 07/26/1996
Date of Death : 1/22/1998
Death Claim Pd: 4/2/1998

CAR-003633

December 22, 1997

Page 1



CONFIRMATION

POLICY NUMBER : T06088508
ANNUITANT : James P O'Donnell
OWNER : Oliver R Dipietro
REPRESENTATIVE : Edward J Hanrahan
610250 0007S

0007S

BROKER/DEALER
U S Life Equity Sales Corp

TRANSACTION DETAIL:

<u>AS OF</u> <u>DATE</u>	<u>TRANSACTION TYPE</u>	<u>TRANSACTION</u> <u>AMOUNT</u>	<u>AMOUNT</u> <u>ALLOCATED</u>	<u>INVESTMENT CHOICE</u>	<u>%</u>	<u>UNIT</u> <u>VALUE</u>	<u>UNITS</u> <u>PURCHASED /</u> <u>REDEEMED</u>
12/22/97	PAYMENT	\$5,000.00	\$5,000.00	FID EQUITY-INCOME	100.00	35.682361	140.1253

SUMMARY OF INITIAL INVESTMENT:

<u>INVESTMENT CHOICE</u>	<u>TOTAL UNITS</u>	<u>UNIT VALUE</u>	<u>TOTAL</u> <u>SUBDIVISION</u> <u>VALUE</u>
FID EQUITY-INCOME	140.1253	35.682361	\$ 5,000.00
		TOTAL	\$ 5,000.00

THIS CONFIRMATION IS ISSUED ON BEHALF OF THE ABOVE NAMED BROKER/DEALER AS AGENT FOR YOU, AND FORTH FINANCIAL SECURITIES CORP. AS AGENT FOR SEPARATE ACCOUNT 4.

IF YOU HAVE ANY QUESTIONS CONCERNING YOUR ACCOUNT, PLEASE CONTACT YOUR REGISTERED REPRESENTATIVE SHOWN ABOVE, OR OUR HOME OFFICE AT 800-352-9910.

The Life Insurance Company of Virginia, 6610 West Broad Street, Post Office Box 27601, Richmond, Va 23261 804-281-6000.

CAR-003773

EX.6

GENFIN-ODONNELL-000031

January 17, 1998

Page 1



CONFIRMATION

POLICY NUMBER : T06088508
ANNUITANT : James P O'Donnell
OWNER : Oliver R Dipietro
REPRESENTATIVE : Edward J Hanrahan
610250 0007S

Oliver R Dipietro
259 Poinciana Island Drive
Miami Beach, Fl 33160

BROKER/DEALER
U S Life Equity Sales Corp

TRANSACTION DETAIL:

AS OF DATE	TRANSACTION TYPE	TRANSACTION AMOUNT	AMOUNT ALLOCATED	INVESTMENT CHOICE	%	UNIT VALUE	UNITS PURCHASED/ REDEEMED
01/16/98	ADDITIONAL PMT	\$507,200.00	\$507,200.00	FID EQUITY-INCOME	100.00	35.918228	14120.9639

CONTRACT SUMMARY AS OF 01/16/98:

INVESTMENT CHOICE	TOTAL UNITS	UNIT VALUE	TOTAL SUBDIVISION VALUE
FID EQUITY-INCOME	14261.0892	35.918228	\$ 512,233.05
		TOTAL	\$ 512,233.05

THIS CONFIRMATION IS ISSUED ON BEHALF OF THE ABOVE NAMED BROKER/DEALER AS AGENT FOR YOU, AND FORTH FINANCIAL SECURITIES CORP. AS AGENT FOR SEPARATE ACCOUNT 4.

IF YOU HAVE ANY QUESTIONS CONCERNING YOUR ACCOUNT, PLEASE CONTACT YOUR REGISTERED REPRESENTATIVE SHOWN ABOVE, OR OUR HOME OFFICE AT 800-352-9910.

The Life Insurance Company of Virginia, 6610 West Broad Street, Post Office Box 27601, Richmond, Va 23261 804-281-6000.

CAR-003775

EX.7

GENFIN-ODONNELL-000033

POLICY DATA

SCHEDULE OF BENEFITS

ANNUITY

SCHEDULE OF PREMIUMS	
AMOUNT	PAYABLE
\$25,000.00	INITIAL PAYMENT

INITIAL PREMIUM: \$25,000.00
ADDITIONAL PREMIUM PAYMENTS MAY BE MADE. SEE PREMIUM PAYMENTS SECTION.

CHARGES:

PREMIUM TAX RATE: 0.00%
ANNUAL POLICY MAINTENANCE CHARGE: \$25.00
MORTALITY AND EXPENSE RISK CHARGE: 1.25% ANNUALLY (.003446% DAILY)
ADMINISTRATIVE EXPENSE CHARGE: 0.15% ANNUALLY (.000411% DAILY)
TRANSFER CHARGE: \$10.00

ANNUAL DEATH BENEFIT CHARGE: 0.25%

OWNER Joseph Caramadre

ANNUITANT James P O'Donnell

Male 56 AGE LAST BIRTHDAY

POLICY NUMBER T06059193

POLICY DATE July 26, 1996

July 26, 2025 MATURITY DATE

PAGE 3

PLAN FLEXIBLE PREMIUM VARIABLE DEFERRED ANNUITY

CAR-003635

EX.8

GENFIN-ODONNELL-000048

July 26, 1997 - January 25, 1998

Print Date: January 27, 1998

Policy Number	T06059193
Policyowner	Joseph Caramadre
Joint Owner	None
Annuitant	James P O'Donnell
Joint Annuitant	None
Policy Date	July 26, 1996
Plan Name	COMMONWEALTH VA PLUS Non-Qualified
Plan Type	Flexible Premium Variable Deferred Annuity

Joseph Caramadre
23 Mollie Drive
Cranston, RI 02921

Joseph A Caramadre
U S Life Equity Sales Corp
400 Reservoir Ave Ste 2h
Providence, Ri 02907

See reverse side for account detail.

Representative Copy

SUMMARY of INVESTMENT ALLOCATIONS as of January 25, 1998

	<u>Allocation</u>	<u>Units</u>	<u>Unit Price</u>	<u>Total Value</u>
GE	Money Market	9965.0443	14.461888	\$ 144,113.35
			Account Value	\$ 144,113.35

* 800-352-9910 with other questions about your annuity.

detach here for mailing

If the annuitant is age 85 or less, you may add to your annuity now. Simply complete this form, detach it and send it along with your check made payable to Life of Virginia. A postage-paid envelope is enclosed.

You may invest in up to ten investment subdivisions, in addition to the Guarantee Account, at one time. Please indicate the allocations for the additional investment in the spaces provided. If you are currently investing in fewer than ten subdivisions and would like to add one or more, please indicate your choice(s) below. The available investment subdivisions are listed on the back of this form. Each allocation may be as small as 1%, but they must total 100%.

Joseph Caramadre

Policy Number T06059193

Policyowner Signature

Date _____

Daytime Telephone Number:

You must sign and date this form for your new premium allocation to become effective for this and future investments.

GE	Money Market	%
		%
		%
		%
		%
		%
		%
		%
		%
		%
One Year Guarantee Account without DCA		%
One Year Guarantee Account with DCA		%
(See reverse for further details)		

100%

CAR-003657

EX.9

GENFIN-ODONNELL-000070